

H.R. 1647
AMENDMENT IN THE NATURE OF A SUBSTITUTE
OFFERED BY MR. BARTON

Strike all after the enacting clause and insert:

1 SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Electricity Emergency Relief Act”.

4 (b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

Sec. 2. Definitions.

TITLE I—GENERAL MEASURES FOR ELECTRIC ENERGY

Sec. 101. Demand management agreements clearinghouse.

Sec. 102. Price mitigation in western market through demand management incentives.

Sec. 103. Transmission constraints study.

Sec. 104. Path 15 transmission expansion.

Sec. 105. Tribal energy office.

Sec. 106. Guarantee of payment required for certain emergency power sales.

Sec. 107. Sale of transmission assets to State of California.

**TITLE II—FEDERAL ASSISTANCE AVAILABLE IN ELECTRIC
EMERGENCIES**

Sec. 201. Emergency conservation awareness.

Sec. 202. Preparation for electricity blackouts.

Sec. 203. Conservation at Federal facilities.

Sec. 204. Daylight savings time.

Sec. 205. PURPA contracts.

**TITLE III—FEDERAL ASSISTANCE AVAILABLE UPON A
GOVERNOR'S REQUEST**

Sec. 301. Federal generation during State emergencies.

Sec. 302. Emergency generation.

Sec. 303. Regional transmission organization in western region.



1 **SEC. 2. DEFINITIONS.**

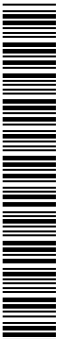
2 The terms used in this Act have the same meanings
3 as when used in the Federal Power Act (16 U.S.C. 791a
4 and following), except as otherwise provided in this Act.

5 **TITLE I—GENERAL MEASURES**
6 **FOR ELECTRIC ENERGY**

7 **SEC. 101. DEMAND MANAGEMENT AGREEMENTS CLEARING-**
8 **HOUSE.**

9 (a) IN GENERAL.—Not later than 30 days after the
10 enactment of this Act, the Federal Energy Regulatory
11 Commission shall establish a clearinghouse system to fa-
12 cilitate agreements between wholesale sellers of electric en-
13 ergy and wholesale purchasers who are willing to forego,
14 for a specified period of time, the purchase of electric en-
15 ergy that they are entitled to purchase from the sellers
16 pursuant to contractual agreements. The specified period
17 of time concerned may include specified times of day or
18 specified times of year.

19 (b) COMPENSATION.—The clearinghouse system es-
20 tablished under this section shall provide for the sale at
21 wholesale to other purchasers of the electric energy re-
22 ferred to in subsection (a) at rates that are just, reason-
23 able, and not unduly discriminatory or preferential, as de-
24 termined by the Commission. The Commission shall estab-
25 lish the rates, charges, and classifications for such sales



1 by rule or order pursuant to this section, no later than
2 30 days after enactment of this Act.

3 (c) DATE OF TERMINATION AND REPORT.—

4 (1) DATE OF TERMINATION; EFFECT ON EXIST-
5 ING AGREEMENTS.—The authority of this section
6 shall terminate on October 1, 2003. Such termi-
7 nation shall not affect any agreement entered into
8 pursuant to this section prior to the date of termi-
9 nation.

10 (2) REPORT.—The Commission shall report to
11 Congress by January 1, 2003, on the effect of this
12 section on the availability of electricity and shall rec-
13 ommend whether the authority of this section should
14 be extended beyond the date of termination.

15 **SEC. 102. PRICE MITIGATION IN WESTERN MARKET**
16 **THROUGH DEMAND MANAGEMENT INCEN-**
17 **TIVES.**

18 (a) REDUCED CONSUMPTION INCENTIVES.—Not
19 later than 30 days after the date of enactment of this Act,
20 the Commission shall implement a program that author-
21 izes any electric consumer of any electric utility within the
22 Western Systems Coordinating Council to sell an amount
23 of electric load the electric consumer is willing to forego
24 equal to a portion of either of the following:



1 (1) The total amount of electric load which
2 such consumer is entitled to consume under contract
3 or applicable regulation.

4 (2) Where the amount the consumer is entitled
5 to consume is not specifically limited by contract or
6 regulation, the total amount of electric load the con-
7 sumer would otherwise reasonably be expected to
8 consume, as determined by the Commission.

9 Such foregone load may be sold for a period not to exceed
10 the term of the electric consumer's entitlement to the con-
11 sumption and may be sold to either (A) the electric utility
12 serving the electric consumer, or (B) any other electric
13 utility or Federal Power Marketing Agency as defined in
14 section 3(19) of the Federal Power Act. The Commission
15 shall establish the rates, charges, and classifications for
16 such sales by rule or order pursuant to this section, no
17 later than 30 days after enactment of this Act. For any
18 sales referred to in subparagraph (B), the electric utility
19 shall make available to the purchaser of the foregone elec-
20 tric load an amount of electric energy equal to the fore-
21 gone load. For any sale of foregone load under this sec-
22 tion, the electric utility of the consumer shall receive the
23 full amount of the contract price or rate under applicable
24 regulation to which such electric utility would otherwise
25 be entitled for the foregone load. The program authorized



1 by this subsection shall remain in effect until October
2 2003. Any agreement entered into pursuant to this section
3 before such date shall remain valid thereafter.

4 (b) EFFECT ON OTHER STATE AND FEDERAL
5 LAWS.—No agreement to sell, or sale, of foregone electric
6 load under this section shall be treated as a sale or resale
7 of electric energy for purposes of the Public Utility Regu-
8 latory Policies Act of 1978 (16 U.S.C. 2602). No person
9 shall be treated as an electric utility company for purposes
10 of the Public Utility Holding Company Act (15 U.S.C. 79a
11 and following) solely by reason of any such agreement or
12 sale. Nothing in this section shall be construed to permit
13 a retail consumer of electricity to choose its supplier of
14 electricity.

15 (c) DEFINITIONS.—As used in this section:

16 (1) The term “electric utility” shall have the
17 meaning provided by section 3 of the Public Utility
18 Regulatory Policies Act of 1978 (16 U.S.C. 2602).

19 (2) The term “electric consumer” means any
20 person, State agency or Federal agency, to which
21 electric energy is sold other than for purposes of re-
22 sale (other than a sale for resale under this section).

23 **SEC. 103. TRANSMISSION CONSTRAINTS STUDY.**

24 The Secretary of Energy and the Federal Energy
25 Regulatory Commission shall undertake a joint study of



1 electric power transmission congestion and develop a plan
2 to relieve constraints that reduce the efficiency of the
3 transmission of electric power within the various regions
4 of the country and with Canadian and Mexican electric
5 transmission systems. The Secretary and the Commission
6 shall submit a report to Congress within 6 months after
7 the enactment of this Act, containing the findings and rec-
8 ommendations of the joint study.

9 **SEC. 104. PATH 15 TRANSMISSION EXPANSION.**

10 (a) IN GENERAL.—The Administrator of the Western
11 Area Power Administration System (hereinafter in this
12 section referred to as “WAPA”) is authorized to expand
13 WAPA’s transmission system to remove the PATH 15
14 constraint. All costs of such expansion shall be recovered
15 on behalf of the United States by WAPA from trans-
16 mission fees imposed by WAPA on transmission of electric
17 energy or from the sale of ownership interests in such
18 transmission facilities. WAPA shall offer to all electric
19 utilities on a not unduly discriminatory or preferential
20 basis the expanded electric power transmission capacity
21 made available as provided in this section. WAPA shall
22 carry out its responsibilities under this section in coordina-
23 tion with State authorities and shall be subject to applica-
24 ble State siting and other requirements.



1 (b) AUTHORIZATION.—There is authorized to be ap-
2 propriated not more than \$220,000,000 to carry out this
3 section.

4 **SEC. 105. TRIBAL ENERGY OFFICE.**

5 (a) ESTABLISHMENT.— There shall be within the De-
6 partment of Energy an Office of Tribal Energy to be head-
7 ed by a Director, who shall be appointed by the Secretary.

8 (b) DUTIES AND RESPONSIBILITIES.—It shall be the
9 duty and responsibility of the Director to—

10 (1) promote tribal energy efficiency;

11 (2) advise the Secretary with respect to the de-
12 velopment of energy resources on tribal land, includ-
13 ing renewable energy, electricity power plants and
14 transmission lines, oil and gas, hydropower, and
15 coal;

16 (3) assist Indian tribes that support develop-
17 ment of energy resources on tribal land, providing
18 energy information and technical assistance to such
19 tribes; and

20 (4) coordinate with the Department of the Inte-
21 rior and Bureau of Indian Affairs on development
22 on energy resources on tribal lands.

23 (c) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated such sums as may be
25 necessary to carry out this section.



1 (b) TABLE OF CONTENTS.—The table of contents for
2 such Act is amended by adding the following new item
3 at the end of the items relating to title II:

“Sec. 213. Office of Tribal Energy.”.

4 **SEC. 106. GUARANTEE OF PAYMENT REQUIRED FOR CER-**
5 **TAIN EMERGENCY POWER SALES.**

6 (a) NO ORDERS TO SELL WITHOUT A REASONABLE
7 ASSURANCE OF PAYMENT.—Notwithstanding section 302
8 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3362),
9 section 202(c) of the Federal Power Act (16 U.S.C.
10 824a(c)), or section 101 of the Defense Production Act
11 of 1950 (50 U.S.C. App. 2071), neither the Secretary of
12 Energy nor the Commission may issue an order that re-
13 quires a seller of electric energy or natural gas to sell,
14 on or after the date of enactment of this Act, electric en-
15 ergy or natural gas unless there is a reasonable assurance
16 that the Commission determines is sufficient to ensure
17 that the seller will be paid—

18 (1) the full purchase price when due, as agreed
19 to by the buyer and seller; or

20 (2) if the buyer and seller are unable to agree
21 on a price—

22 (A) a fair and equitable price for natural
23 gas, as determined by the President under sec-
24 tion 302 of the Natural Gas Policy Act of 1978
25 (15 U.S.C. 3362); or



1 (B) a just and reasonable price for electric
2 energy, as determined by the Secretary of En-
3 ergy or the Commission, as appropriate, under
4 section 202(c) of the Federal Power Act (16
5 U.S.C. 824a(c)).

6 **SEC. 107. SALE OF TRANSMISSION ASSETS TO STATE OF**
7 **CALIFORNIA.**

8 Notwithstanding section 201(f) of the Federal Power
9 Act (16 U.S.C. 824b(f)), if the State of California, or any
10 entity established by the State, owns or operates trans-
11 mission facilities acquired from any public utility subject
12 to the jurisdiction of the Commission, the State, or such
13 entity, shall be subject to the jurisdiction of the Commis-
14 sion under part II of such Act with respect to such facili-
15 ties to the same extent and in the same manner as would
16 be the public utility from which such transmission facili-
17 ties were acquired.

18 **TITLE II—FEDERAL ASSISTANCE**

19 **SEC. 201. EMERGENCY CONSERVATION AWARENESS.**

20 The Secretary of Energy, in consultation and coordi-
21 nation with affected States, is authorized and directed to
22 conduct an emergency awareness campaign to promote
23 conservation in geographic areas where demand for elec-
24 tric energy is expected to exceed available supplies. Such
25 campaign shall use broadcast, print, and other media as



1 appropriate to raise public awareness of the likelihood and
2 consequences of electric energy shortages and to promote
3 specific actions to reduce consumption of electric energy
4 for non-essential purposes during periods of peak demand.
5 The Secretary shall take measures to ensure that the in-
6 formation and recommendations conveyed in the campaign
7 are consistent with any educational efforts already under
8 way in the affected States.

9 **SEC. 202. PREPARATION FOR ELECTRICITY BLACKOUTS.**

10 The Secretary of Energy, in consultation and coordi-
11 nation with the Director of the Federal Emergency Man-
12 agement Agency and affected States, is authorized and di-
13 rected to make preparations to handle emergency situa-
14 tions caused by widespread electric energy blackouts. Such
15 preparations shall include each of the following specific ac-
16 tions:

17 (1) Establishing an office in States in which
18 electric energy blackouts are expected to occur.

19 (2) Conducting an educational campaign pre-
20 paring the public for electric energy blackouts.

21 (3) Preparing an emergency plan ready to pro-
22 vide immediate assistance during blackouts, includ-
23 ing coordination with police, fire and safety agencies
24 to address emergency situations resulting from elec-
25 tric energy blackouts.



1 The Secretary shall take measures to ensure that the prep-
2 arations made under this section are consistent with emer-
3 gency preparations directed by authorities in the affected
4 States and localities.

5 **SEC. 203. CONSERVATION AT FEDERAL FACILITIES.**

6 (a) REQUIREMENT.—If an electricity emergency is in
7 effect in a State pursuant to a declaration by the Governor
8 of the State, each Federal agency shall apply electricity
9 conservation measures to its Federal buildings in use in
10 a State so that the electricity consumption per gross
11 square foot of its Federal buildings in use in the State
12 during any period for the duration of the electricity emer-
13 gency is at least 10 percent less than the electricity con-
14 sumption per gross square foot of its Federal buildings
15 in use in the State during the comparable period of the
16 last year during which that comparable period did not
17 occur during an electricity emergency.

18 (b) EXPIRATION.—This section shall not apply after
19 October 1, 2003.

20 **SEC. 204. DAYLIGHT SAVINGS TIME.**

21 (a) AUTHORITY.—

22 (1) IN GENERAL.—Notwithstanding the Act of
23 March 19, 1918 (15 U.S.C. 261–264), if the legisla-
24 ture of any of the States of California, Nevada, Or-
25 egon, or Washington makes a finding that adjusting



1 the standard time is necessary to help alleviate an
2 electricity crisis, the legislature of such State may
3 make any adjustments to the standard time, on a
4 statewide basis, as it considers necessary.

5 (2) SUBSEQUENT STATE AUTHORITY.—The leg-
6 islature of any State referred to in paragraph (1)
7 may make the same adjustment made by any other
8 State that has acted under paragraph (1), without
9 making the finding required by that paragraph.

10 (b) STANDARD TIME.—For the purposes of the Act
11 of March 19, 1918 (15 U.S.C. 261–264), adjusted time
12 implemented pursuant to subsection (a) of this section
13 shall be considered the standard time in those States
14 where it is in effect.

15 (c) EXPIRATION.—The authority to have adjusted
16 time in effect pursuant to subsection (a) shall expire after
17 December 31, 2003.

18 **SEC. 205. PURPA CONTRACTS.**

19 (a) NONPAYMENT FOR POWER.—Within 60 days
20 after the enactment of this subsection, the Commission
21 shall revise the rules under section 210 of the Public Util-
22 ity Regulatory Policies Act of 1978 to provide that if—

23 (1) the owner or operator of a qualifying small
24 power production facility, or qualifying cogeneration
25 facility, as defined in the Public Utility Regulatory

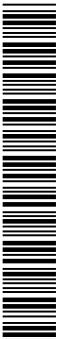


1 Policies Act of 1978 (16 U.S.C. 824a-3), has sold
2 electric energy after the enactment of this Act pur-
3 suant to a contract under this section to an electric
4 utility, and

5 (2) such owner or operator has not been paid
6 in full for such energy within the payment period
7 provided in the contract,
8 such owner or operator may suspend so much of the con-
9 tract as requires the power and energy from the facility
10 to be sold to such electric utility. During any such suspen-
11 sion, such owner or operator may sell the electric energy
12 covered by such contract to any other person or any other
13 party designated to receive such power or energy. Nothing
14 in this section shall apply to sales of electric energy before
15 the enactment of this Act.

16 (b) TERMINATION.—A suspension under this sub-
17 section shall terminate on the first day of the contract
18 month after which the utility pays in full for the electric
19 energy received from the qualifying small power produc-
20 tion facility or qualifying cogeneration facility concerned
21 except as otherwise provided in a judicial resolution of the
22 contract dispute or in a negotiated resolution between the
23 parties.

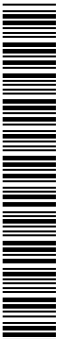
24 (c) OTHER SERVICES.—During any suspension under
25 this subsection, the electric utility shall provide such



1 transmission, interconnection, and distribution services as
2 may be necessary to deliver electric energy from the quali-
3 fying small power production facility, or qualifying cogen-
4 eration facility, to the purchaser or to another trans-
5 mission system from which the purchaser may obtain de-
6 livery of the electric energy, subject to the requirements
7 of the Federal Power Act relating to transmission services.

8 (d) INTERCONNECTION.—Nothing in this subsection
9 shall affect the obligation of an electric utility to inter-
10 connect with a qualifying small power production facility
11 or qualifying cogeneration facility or to provide electric en-
12 ergy to such facility at rates that meet the requirements
13 of section 210(c) of the Public Utility Regulatory Policies
14 Act of 1978 pursuant to the rules of the Commission.
15 Where a qualifying facility exercises its rights under this
16 section, the electric utility party to the power purchase
17 contract shall maintain interconnection services
18 unimpeded and without interruption.

19 (e) SUNSET.—This section shall cease to apply on Oc-
20 tober 1, 2003.



1 **TITLE III—FEDERAL ASSIST-**
2 **ANCE AVAILABLE UPON A**
3 **GOVERNOR’S REQUEST**

4 **SEC. 301. FEDERAL GENERATION DURING STATE EMER-**
5 **GENCIES.**

6 (a) DEFINITION.—For purposes of this section, the
7 term “qualified Federal electric generation facility” means
8 any electric generation facility (other than a hydroelectric
9 power generation facility) owned or operated by a depart-
10 ment, agency, or instrumentality of the United States and
11 located in a State in which an electricity emergency has
12 been declared as provided in this section. Such term in-
13 cludes backup generators and portable generators.

14 (b) AUTHORIZATION OF GENERATION.—During any
15 period (not in excess of 2 years) during which an elec-
16 tricity emergency is in effect in a State pursuant to a dec-
17 laration by the Governor of the State, if the Governor sub-
18 mits a request for such action to the Secretary of Energy,
19 the Secretary may authorize any department, agency, or
20 instrumentality of the United States that owns or operates
21 a qualified Federal electric generation facility, to generate
22 electric energy for consumption by such department, agen-
23 cy, or instrumentality or for sales to such State for local
24 distribution in the State to assist in relieving emergency

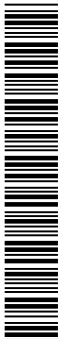


1 electric power shortages if reimbursement is assured by
2 the recipient of such power or by a State government.

3 **SEC. 302. EMERGENCY GENERATION.**

4 (a) DEFINITION.—The term “high electricity emer-
5 gency day” means a day on which a California State agen-
6 cy determines that rolling electric blackouts are imminent
7 and during which a Stage III Emergency has been de-
8 clared by the California Independent System Operator.

9 (b) NOX WAIVER FOR NATURAL GAS-FIRED GEN-
10 ERATION.—In order to permit additional generation on
11 any high electricity emergency day or any portion of such
12 a day, the Governor of California may temporarily waive,
13 in whole or in part, any emission limitations for emissions
14 of oxides of nitrogen from natural gas fired electric power
15 generation facilities which limitations are contained in the
16 applicable implementation plan under the Clean Air Act
17 for the State of California (including any limitations set
18 forth in a permit). Such waiver may be issued only during
19 a period during which an electricity emergency is in effect
20 in California pursuant to a declaration by the Governor
21 of the State. Such temporary waiver shall not authorize
22 any emission source to disconnect or cease using any emis-
23 sion control device used to control emissions of oxides of
24 nitrogen. No such temporary waiver may remain in effect
25 for a period longer than 6 consecutive months.



1 (c) MITIGATION FEES.—Nothing in this section shall
2 be construed to limit or prohibit the imposition of mitiga-
3 tion fees by the State of California on any stationary
4 source with respect to emissions permitted by reason of
5 a waiver under subsection (b).

6 (d) AIR QUALITY.—Upon the issuance of a waiver
7 under subsection (b), the Governor shall submit a report
8 to the Administrator of the Environmental Protection
9 Agency containing—

10 (1) an explanation of the actions taken in such
11 waiver,

12 (2) the effect of such actions on air quality, and

13 (3) a schedule for the submission of an amend-
14 ment to the State implementation plan to the
15 extent—

16 (A) necessary to ensure that such waiver
17 does not result in a net increase in emissions of
18 any oxides of nitrogen in any affected air qual-
19 ity region above that required by the Clean Air
20 Act, and

21 (B) the Governor determines to modify or
22 replace any provisions of the applicable imple-
23 mentation plan that affect natural gas fired
24 electric power generation facilities and that are



1 more stringent than required by the Clean Air
2 Act.

3 (e) SUNSET.—This section shall cease to apply on the
4 date 2 years after the enactment of this Act.

5 **SEC. 303. REGIONAL TRANSMISSION ORGANIZATION IN**
6 **WESTERN REGION.**

7 (a) IN GENERAL.—After notice and an opportunity
8 for a hearing, the Federal Energy Regulatory Commission
9 shall establish a regional transmission organization for the
10 region covered by the Western Systems Coordinating
11 Council if 10 or more of the Governors of the 14 States
12 covered in whole or in part by the Western Systems Co-
13 ordinating Council sign a petition submitted by one or
14 more of such Governors requesting the Commission to es-
15 tablish such organization.

16 (b) FEDERAL TRANSMISSION FACILITIES.—The
17 Bonneville Power Administration and the Western Area
18 Power Administration are each authorized and required
19 to participate in a regional transmission organization es-
20 tablished under this section. Each other entity (including
21 municipally owned entities and cooperatives) owning or
22 operating transmission facilities within the region covered
23 by the Western Systems Coordinating Council shall par-
24 ticipate in any such organization. Notwithstanding any
25 other law, participation may include delegation of oper-



1 ation and control of the transmission system concerned to
2 a regional transmission organization or other method of
3 participation, under terms and conditions the power mar-
4 keting administration concerned determines necessary or
5 appropriate, including being bound by operational and
6 other orders of the regional transmission organization and
7 by the results of arbitration of disputes with the organiza-
8 tion or with other participants.

9 (c) STATE AUTHORITY NOT AFFECTED.—Nothing in
10 this section affects the authority of States to regulate
11 transmission facility maintenance, planning, siting, and
12 other utility functions.

13 (d) SUNSET.—No regional transmission authority es-
14 tablished under this section shall be required to continue
15 to operate after the date 3 years after the regional trans-
16 mission organization is established.

